

IN THE SENATE OF THE UNITED STATES.

MARCH 31, 1858.—Ordered to be printed.

Mr. POLK submitted the following

REPORT.

The Committee on Claims, having had under consideration the claim of Seth Belknap, beg leave to report :

That in the year 1819 Nimrod Farren and Richard Harris entered into contract with the United States for the erection of a fortification on Dauphine island, in Mobile bay, and Seth Belknap became a sub-contractor under them in doing that work, and, as such, they became his debtors to a large amount, and on the 20th December, 1823, executed to him their note, at thirty days, for \$17,642 64.

The erection of the fortification was ultimately abandoned, and on the 3d of March, 1825, Congress passed a law for the relief of said Farrow and Harris, which required the Secretary of War to cause to be delivered up and returned to said Farrow all sureties or liens held by the United States on his property, and to pay to said Farrow, or his legal representatives, \$73,747 76, provided that, before he should receive the same, he should enter into bond to the Secretary in the sum of \$120,000, with good and sufficient securities, conditioned that said Farrow should appropriate the net proceeds of the personal property and the money so to be received from the treasury towards the payment of the debts contracted by Farrow and Harris for supplies furnished and services rendered in and about the erection of said fortification ; and if there should be any surplus after paying said debts, said Farrow shall pay to the said Harris, or his legal representatives, his just proportion of said surplus. This law also provided that it should be the duty of the Secretary of War, on application of any of the parties interested, and upon satisfactory proof of the failure of said Farrow to fulfil the condition of the said bond, to prosecute the sureties therein for the benefit of such.

The petition alleges, in substance, that said Belknap, by his attorney, Joseph Watson, demanded that the Secretary of War should institute suit for his benefit on said bond, which he failed to do.

This allegation of the petition is the material one to sustain the claim of the petitioner ; indeed, it is indispensable, for without its being established there can be no just or equitable claim for the relief sought.

After a careful examination of the case before them, the committee find that there is no sufficient proof that a demand was ever made upon the Secretary of War by Seth Belknap, or any person or persons for him, to prosecute said bond for his benefit; nor was any proof ever made to him of the failure of said Farrow to fulfil the condition of said bond, or even that said Belknap was a creditor of said Farrow.

Your committee, therefore, think that the prayer of the petitioner in this case ought not to be granted.